

SECTION 15 - APPLICATION ACCEPTANCE AND REVIEW

A. Process Determination

Prior to January 1, 1975

Encroachments constructed prior to January 1, 1975 and not subsequently modified may be permitted with a minimum amount of processing. Proof of construction prior to January 1, 1975 must be provided. Proof of construction shall include dated aerial photographs, tax records, or other historical information deemed reliable by the Board. Persons providing such documentation shall receive an encroachment permit and shall not be required to pay the application and publication fees ([Idaho Code 58-1312](#)).

58-1305 or 58-1306

Examine the application to determine if the proposed encroachment is:

- navigational or non-navigational; and
- commercial or non-commercial.

Single-family and two-family encroachments (navigational non-commercial) will be processed under [Idaho Code 58-1305](#). All other encroachments will be processed under [Idaho Code 58-1306](#).

Applications that require processing under both Idaho Code 58-1305 and Idaho Code 58-1306 may be processed simultaneously if the 60 day approval deadline is met. Otherwise, they shall be processed separately to meet the corresponding requirements and separate permits may be issued. The second permit may have the same base permit number with a higher extension (A, B, C, etc.)

Existing Permits

All encroachment applications shall be examined to determine if there is an existing encroachment and file for the proposed encroachment location.

B. Application Components

Receipt of Applications

Applications received by mail shall be date stamped when the mail is opened by the Area personnel. If an application is received during an office or site visit, the application shall be date stamped upon receipt.

After being date stamped, applications shall be forwarded to the appropriate IDL Area office and personnel.

Forms and Attachments

Encroachment applications will include:

- Joint Application for Permits ([Attachment 3](#));
- IDL Single or Two-Family Application ([Attachment 4](#)) or Commercial/Community/Non-navigational Application ([Attachment 5](#));
- Required drawings; and
- Applicable fees ([Attachment 6](#)).

C. Application Completeness

Application Completeness

All encroachment applications shall be examined for completeness. Area staff shall process an encroachment application based upon the filing information provided, not based upon assumed conditions.

Complete applications shall contain the following ([IDAPA 20.03.04.020.07](#)):

- Lakebed profile (5 or 10 foot intervals) indicating OHWM (or AHWL), low water levels, and encroachment length;
- Copy of most recent county survey or plat (covering at least applicant's lot and the two adjacent littoral lots);
- Proof of ownership or control of littoral property (e.g. copy of deed, lease);
- General vicinity map, including roads, water bodies and project location;
- Scaled maps or aerial photographs of proposed encroachment(s) and adjacent encroachments with lengths of encroachments and distances between encroachments and littoral right lines (setbacks).
- Dimensions and total square footage of proposed docks;
- Names and mailing address of adjacent littoral owners; and
- Completed adjacent land-owner consent form (required if setbacks are less than those required in Procedure 25, Section E).

Format

All applications and attachments must be submitted on paper no larger than 8½" x 14" ([IDAPA 20.03.04.020.07](#)).

Signatures

The application must be signed or approved by the littoral owner ([IDAPA 20.03.04.020.02](#)).

D. Processing Fees

Fee Schedule

Fees associated with the Navigable Waters Programs are established by Idaho Code and Rules ([Idaho Code 58-1307](#) and [IDAPA 20.03.04.020.05](#)). Refer to [Attachment 6](#) for the Fee Schedule.

Fee Exemptions

Application fees **shall not** be collected from any city, county, state or federal agencies for non-commercial navigational encroachment applications ([IDAPA 20.03.04.020.07.d](#)). Publication fees shall still be collected.

Depositing Fees

Processing fees shall be logged in the Daily Register and stamped for “deposit only” by the IDL support staff. Only cash, cashier checks, personal checks, or money orders may be accepted. Checks shall be written to “Treasurer, State of Idaho.” A copy of the deposit receipt will be kept with the application.

Non-Refundable Fees

Application fees will not be refunded ([IDAPA 20.03.04.020.07.e](#)).

Incomplete Applications

If an application is deemed incomplete, Area staff will submit a letter of incompleteness, identifying the deficiencies and establishing a 30 days response deadline ([Attachment 7](#)). The original application fee will remain valid for that 30 day period. The Department may extend the deadline with written correspondence documented in the file ([IDAPA 20.03.04.020.07.j](#)).

Fees for Multiple Applications

[Attachment 6](#) has a list of scenarios that reflect the fees to be collected for multiple encroachments. Contact the Bureau for questions regarding fee collection for circumstances that are unclear or not described below.

Publication Fees

Area staff shall collect publication fees from the applicant, as necessary. The Area shall typically collect \$75.00 for the newspaper publication. The Area has the discretion to adjust this base deposit depending on local newspaper costs. The fee is collected to compensate the Department for the actual publication costs incurred. These fees shall only be refunded to the applicant if the publication expenses are not actually incurred ([IDAPA 20.03.04.020.07.e and f](#)). Refunds may be in total if publication does not occur, or partial if the actual costs are substantially less than the fee that is paid.

E. Application Log In

Application Date

The application date shall be documented in the encroachment file. This is the date the application was received by the department. If supplemental application information is received, then the application date becomes the date the supplemental information is received by the department.

Log-in Ledger

All complete encroachment applications shall be logged in a ledger or journal maintained by the Area office and assigned an encroachment number. The date, entry number, applicant name, type of encroachment, waterway and encroachment number shall be entered in a journal or electronic ledger. The ledger or journal shall run from January 1 to December 31 of each year.

Existing Permit Number

If it is determined that an encroachment permit already exists, the existing encroachment number shall be retained. An extension will be added to the existing encroachment number, i.e. L-XX-S-XXXX**A**, to denote an amendment. If the permit number already has an extension, then the next subsequent extension letter shall be used with the permit number (e.g. L-XX-S-XXXX**B**).

New Encroachment Numbers

If no encroachment permits or file exists, then a new file is started and a new number assigned (L-XX-S-XXXX). An encroachment number will consist of the letter L-drainage number-letter S-four digit number. Encroachment numbers shall be assigned chronologically.

Numbering System

The Idaho Department of Water Resources drainage numbering system ([Attachment 8](#)) will be the control number for the encroachment numbering system. For example, in the number L-01-S-XXXX the drainage number is 01.

F. Application Time clocks**58-1305 Applications**

If a complete application is received for processing under [Idaho Code 58-1305](#) (noncommercial, navigational encroachments, e.g. single-family and two-family docks), a sixty (60) day time clock applies to the processing of the permit application. **Failure to act on the application within the required sixty days will constitute approval of an encroachment permit as submitted** ([IDAPA 20.03.04.025.08](#)).

60-day Time Clock

The 60 day clock starts on the date the Department receives a complete application. Examples:

- All information received on January 3rd. Reviewed by staff on January 10th and determined to be complete.
Time clock: 60 days from January 3rd
- First information received on January 3rd. Reviewed by staff on January 10th and determined to be incomplete and notification sent to applicant. Additional information received on January 20th. Reviewed by staff on January 23rd and determined to be complete
Time clock: 60 days from January 20th
- First information received on January 3rd. Reviewed by staff on January 10th and determined to be incomplete and notification sent to applicant. Additional information received on January 20th. Reviewed by staff on January 23rd and determined to be incomplete and notification sent to applicant. Additional information never received.
Time clock: never starts

58-1306 Applications

Non-navigational encroachments or commercial navigational encroachments processed under [Idaho Code 58-1306](#) do not have a sixty (60) day time clock; however, public hearings must be held within ninety (90) days of the date the completed application is submitted ([IDAPA 20.03.04.030.05](#)).